

Christopher R. Reeves-Wyoming Bar No. 7-5386
Waltz / Reeves
1660 Lincoln Street, Suite 2510
Denver, CO 80264
(303) 830-8800

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

Francisco L. Herrera, and Joanna Herrera, Co-Wrongful Death Representatives, for exclusive benefit of the beneficiaries of Monica Herrera, deceased.)
Plaintiff(s),) Civil Action No. 15-CV-128-NDF.
)
vs.)
)
Gregory Buckingham and Deborah Buckingham, but in their individual capacities as Trustees of the Buckingham Family Trust; and Gregory Buckingham and Deborah Buckingham, as individual defendants; and Wyoming Mechanical, Inc., a Wyoming Corporation; Triangle Tube/Phase III Co. Inc., a New Jersey Corporation; and M&G DuraVent, Inc., a New York Corporation)
Defendant(s).)

STIPULATION OF UNDISPUTED FACTS

For use in this litigation and for no other purpose, the parties stipulate to the following statement of undisputed facts:

THE INSTALLATION:

1. In November 2014, Wyoming Mechanical, Inc. was hired to replace an existing boiler system located in a garage at 8935 E. Ditch Creek Road owned by the Buckinghams by way of their Trust.
2. Wyoming Mechanical proposed the installation of a Triangle Tube Prestige Trimax Solo 175 because Wyoming Mechanical had good luck with Triangle Tube boilers prior to the installation and thought it was a quality product.
3. Wyoming Mechanical installed the Prestige Trimax Solo 175 at 8935 E. Ditch Creek Road on November 13 and 14, 2014, and installed the conversion orifice to convert it from use with natural gas to liquid propane.
4. The written materials shipped with the subject boiler included: (1) an Installation and Maintenance Manual; (2) a User's Information Manual; (3) a Vent Supplement manual; (4) a Control Application Supplement-TriMax; and (5) Natural to Propane Conversion Instructions.
5. No carbon-monoxide detectors were installed at 8935 E. Ditch Creek Road.
6. After the Triangle Tube boiler was installed in the Buckingham home, an appointment was set up with Wyoming Mechanical in late December to repair a leak in the Buckingham's garage cement slab on February 2, 2015. The

appointment was set for a time after the holidays when the Buckinghams would not be in town.

JANUARY 2015:

7. Dave Schuler was employed by the Buckinghams as a caretaker. In exchange for providing caretaking services, the Buckinghams provided him with a free place to live for himself and his wife, and also paid the utilities associated with his home on the Buckingham ranch.
8. On January 27, 2015 Mr. Buckingham sent Mr. Schuler an email advising him that Monica Herrera would be cleaning in the main house on Friday, January 30, 2015.
9. The Plaintiffs' Decedent, Monica Herrera, worked as the housekeeper for the Defendants Buckingham at their ranch home for several years.
10. On January 28, 2015, Greg Buckingham left a voicemail with Wyoming Mechanical about the boiler, wherein he stated:
"David, Greg Buckingham, 733-7436. Leaving town in the morning, so if you get a chance to call me this afternoon, that would be great. I want to chat with you about coming out here Monday. I know you have it on your schedule already and who you are bringing, so you don't waste your time. It sounds like a car that's hitting the wall, it's getting so loud when it bangs. And you may need to bring out the guy that sold you the boiler is what I'm thinking, but you definitely need two people. Okay, thanks. Bye."

11. David Gieck returned Mr. Buckingham's call on Thursday morning, January 29, 2015. Mr. Buckingham told Mr. Gieck that he was leaving town shortly and confirmed that Wyoming Mechanical was coming out Monday. He told David Gieck that the vent pipe had come apart, but they had put it back together. He also told Dave Gieck that nobody was going to be around and that Dave Schuler would be on site paying attention to the boiler.
12. Along the PolyPro exhaust pipe were glued red stickers stating a "Warning" of danger from carbon monoxide (CO).
13. Mr. Buckingham does not read warnings, including those placed on the exhaust venting pipe and made no inquiry in that regard.
14. On January 29, 2015, Thursday evening, Mr. Schuler went over to the Buckingham house to perform some small repairs around the house. After he performed the repairs, he checked on the boiler vent system because Mr. Buckingham had asked him to keep an eye on it because it had previously pulled apart. When he checked on it that Thursday evening, the venting system was together and was not pulled apart. However, he found the connector ring for the vent joint on top of the refrigerator so he pulled the vent apart and put the ring into place and put the vent back together.
15. On January 30, 2015, at approximately 10 a.m., Monica Herrera's vehicle was first observed outside the Buckingham main house by Dave Schuler. He knew that Mrs. Herrera accessed the Buckingham's home through the garage where the boiler was located, but was not worried about the vent coming apart again and

didn't check on it. Mr. Schuler observed Mrs. Herrera's vehicle around 6:00 p.m., unmoved from 10:00 that morning.

16. David Schuler entered the garage. He opened the garage door, both vehicles were dripping wet. He saw the boiler exhaust pipe was separated in the same location where he previously reinstalled the locking band. He put the pipes back together and attempted to turn off the subject boiler. He then went into the house at the mudroom door connected to the garage where he found Monica Herrera dead on the floor.
17. Monica Herrera died as a result of exposure to carbon monoxide (CO).

FEBRUARY 2015:

18. At approximately 10 a.m. on February 2, 2015, Wyoming Mechanical, at the request of the Buckinghams, inspected the boiler to try and determine what had happened.

Respectfully submitted this 15th day of August, 2016.

s/Christopher R. Reeves

Richard A. Waltz, Esq., *pro hac vice*
Christopher R. Reeves, Esq., #7-5386
Wyoming Bar No. 7-5386
Waltz / Reeves
1660 Lincoln Street, Suite 2510
Denver, CO 80264
Telephone: 303-830-8800
Facsimile: 303-830-8850
dwaltz@waltzlaw.com
creeves@waltzlaw.com

David G. Lewis, WY Bar #4-1150

Attorney at Law

P.O. Box 8519

Jackson, WY 83002

Tel.: (307) 739-8900

Fax: (307) 739-8902

davelewis@bresnan.net

Counsel for Plaintiffs

Julie Nye Tiedeken, - WY Bar #5-1949

Sean W. Scoggin - WY Bar # 6-3263

McKellar, Tiedeken & Scoggin

702 Randall Avenue

Cheyenne, WY 82001

Tel.: (307) 7637-5575

Fax: (307) 7637-5515

jtiedeken@mtslegal.net

sscoggin@mtslegal.net

Counsel for Wyoming Mechanical, Inc.;

Cross Defendant

Joseph P. McGill (Pro Hac Vice)

Foley, Baron, Metzger & Juip, PLLC

38777 Six Mile Road, Suite 300

Livonia, MI 48152

Tel: (734) 742-1825

Fax: (734) 521-2379

jmcgill@fbmjlaw.com

Co-Counsel for Triangle Tube/Phase III, CO., Inc.

Defendant

Katherine L. Mead, WY Bar #5-2432

Mead & Mead

1200 N. Spring Gulch Rd

P.O. Box 1809

Jackson, WY 83001

Tel.: (307) 733-0166

Fax: (307) 733-7590

kate@meadlaw.net

Counsel for Gregory & Deborah Buckingham; Buckingham Family Trust; Trustee G

Buckingham & Trustee D; Buckingham; Cross Claimants

Cameron S. Walker, Attorney No. 5-1451

Judith A. Studer, Attorney No. 5-2174

Schwartz, Bon, Walker & Studer, LLC

141 South Center Street, Suite 500
Casper, WY 82601
Tel: (307) 235-6681
Fax: (307) 234-5099
cam@schwartzbon.com
jstuder@schwartzbon.com
Counsel for Triangle Tube/Phase III, CO.
Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 17th, day of August, 2016, a true and correct copy of the above STIPULATION OF UNDISPUTED FACTS was filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

David G. Lewis, WY Bar. #4-1150
P.O. Box 8519
Jackson, WY 83002
Tel.: (307) 739-8900
Fax: (307) 739-8902
davelewis@bresnan.net
Counsel for Plaintiffs

Katherine L. Mead, WY Bar #5-2432
Mead & Mead
1200 N. Spring Gulch Rd
P.O. Box 1809
Jackson, WY 83001
Tel.: (307) 733-0166
Fax: (307) 733-7590
kate@meadlaw.net
Counsel for Gregory & Deborah
Buckingham; Buckingham Family Trust
Trustee G Buckingham & Trustee D
Buckingham; Cross Claimants

Julie Nye Tiedeken, - WY Bar #5-1949
Sean W. Scoggin - WY Bar # 6-3263
McKellar, Tiedeken & Scoggin
702 Randall Avenue
Cheyenne, WY 82001
Tel.: (307) 7637-5575
Fax: (307) 7637-5515
jtiedeken@mtslegal.net
sscoggin@mtslegal.net
Counsel for Wyoming Mechanical, Inc.;
Cross Defendant

Cameron S. Walker, Attorney No. 5-1451
Judith A. Studer, Attorney No. 5-2174
Schwartz, Bon, Walker & Studer, LLC
141 South Center Street, Suite 500
Casper, WY 82601
Tel: (307) 235-6681
Fax: (307) 234-5099
cam@schwartzbon.com
jstuder@schwartzbon.com
Counsel for Triangle Tube/Phase III, CO.,
Inc.
Defendant

Joseph P. McGill (Pro Hac Vice)
Foley, Baron, Metzger & Juip, PLLC
38777 Six Mile Road, Suite 300
Livonia, MI 48152
Tel: (734) 742-1825
Fax: (734) 521-2379
jmccgill@fbmjlaw.com
Co-Counsel for Triangle Tube/Phase III,
CO., Inc.
Defendant

s/Christopher R. Reeves